

**ELECTIONS: CANDIDATES FOR OFFICE - CONDUCT OF PRIMARIES - NOMINATIONS OF CANDIDATES BY POLITICAL PARTIES.**

**Qualified voters may vote either for Republican Party candidates for statewide office or for Democratic Party candidates for district and local office in June 1997 primary to be held in Hampton; may not vote for candidates of both parties.**

The Honorable I. Vincent Behm Jr.

Member, House of Delegates

May 19, 1997

You ask whether, pursuant to § 24.2530 of the *Code of Virginia*, a qualified voter may cast a ballot in both the Republican and the Democratic Party primaries to be held in the City of Hampton on June 10, 1997. The Republican Party will conduct a statewide primary to elect the party's candidates for Governor, Lieutenant Governor and Attorney General. The Democratic Party will conduct a district primary to elect the party's candidates for the House of Delegates for the districts that include the City of Hampton.<sup>1</sup> Finally, the Democratic Party will conduct a city primary to elect the party's candidates for commissioner of the revenue, sheriff and treasurer for the City of Hampton.

Section 24.2509(A) grants the "duly constituted authorities" of the state political party or of the political party for the district, county, city or town the power to determine the method by which the party nomination for offices shall be made.<sup>2</sup> Pursuant to § 24.2515, all primaries for the nomination of candidates to be voted on at the November general election, whether for state, district or local offices, are held on the second Tuesday in June preceding the November election. Section 24.2530 provides that "[a]ll persons qualified to vote, pursuant to §§ 24.2400 through 24.2403, may vote at the primary. No person shall vote for the candidates of more than one party."

Sections 24.2509 and 24.2515 clearly contemplate that more than one party will elect candidates for different offices at the same primary. Section 24.2530 contains no qualifying language suggesting a legislative intent to limit the voting restriction to primaries at which only candidates for the same office are to be elected.<sup>3</sup>

"[W]here a law is expressed in plain and unambiguous terms, whether those terms are general or limited, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction."<sup>4</sup> Section 24.2530, by plain and unambiguous language, limits a person qualified to vote in a dual party primary from voting for the candidates of more than one party. Accordingly, it is my opinion that in the June 1997 primary to be held in the City of Hampton, qualified voters may vote either for the Republican Party candidates for statewide office or for the Democratic Party candidates for district and local office. They may not vote for the candidates of both parties.<sup>5</sup>

<sup>1</sup>The City of Hampton is divided among the ninety-first, ninety-second, and ninety-fifth districts. Section 24.2304.

<sup>2</sup>Section 24.2509(B) authorizes an incumbent officeholder to determine the method of nomination in certain instances.

<sup>3</sup>Section 24.1182, the predecessor statute to § 24.2530, contained essentially the same language, providing that "[a]ll persons qualified, pursuant to § 24.141, to vote at the election for

which the primary is held, may vote at the primary; except that no person shall vote for the candidates of more than one party." Ch. 616, 1976 Va. Acts 813, 833. The Virginia Code Commission suggested no substantive change to this provision when Title 24.1 was recodified in 1993. See 5 H & S. DOCS., *Report of the Virginia Code Commission on the Recodification of Title 24.1 of the Code of Virginia*, Sen. Doc. No. 25, at 86 (1993 Sess.).

<sup>4</sup>*Town of South Hill v. Allen*, 177 Va. 154, 165, 12 S.E.2d 770, 774 (1941); see also *Ambrogi v. Koontz*, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982); *Temple v. City of Petersburg*, 182 Va. 418, 29 S.E.2d 357 (1944); Op. Va. Att'y Gen.: 1995 at 123, 125; 1994 at 93, 95.

<sup>5</sup>The State Board of Elections advises that the question regarding the application of § 24.2530 and its predecessor statute has arisen frequently in the past. It has been the consistent position of the Board that the statute prohibits voters from voting for the candidates of more than one party in a primary election, irrespective of whether the candidates are running for the same office. Interpretations of statutes by state agencies charged with their administration are entitled to great weight. See *Forst v. Rockingham*, 222 Va. 270, 276, 279 S.E.2d 400, 403 (1981); Op. Va. Att'y Gen.: 1995 at 228, 230; 1993 at 169, 171.

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